



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0391; FRL-10080-01-R4]

Air Plan Approval; Kentucky;

Source Specific Revision for Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), on March 29, 2021. The proposed revision was submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (District or Jefferson County), which has jurisdiction over Jefferson County, Kentucky. The proposed revision would remove from the SIP several source-specific permits for a facility in the county that were previously incorporated by reference and replace them with a Board Order with emissions controls that are at least as stringent as those in the permits.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0391 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](http://www.regulations.gov). EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or

comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Joel Huey, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Huey can be reached by telephone at (404) 562-9104 or via electronic mail at huey.joel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

EPA is proposing to approve changes to the Kentucky SIP that were received by EPA on March 29, 2021. Kentucky's March 29, 2021, submittal seeks to remove from the SIP permits that are currently held by LL Flex, LLC, Louisville Laminating Plant (LL Flex) in Louisville, Kentucky, and that contain a volatile organic compound (VOC) bubble¹ for the facility to meet Reasonably Available Control Technology (RACT) requirements. At the same time, this revision seeks to replace those permits with a Board Order issued by the Air Pollution Control Board (Board) of Jefferson County.

II. What is the background and EPA's analysis for the proposed action?

In 1990, EPA approved a revision to the Kentucky SIP that added an emission reduction plan in the form of a "bubble rule" for the Alcan Foil Products² (now LL Flex) plant in Louisville, Kentucky. *See* 55 FR 20268 (May 16, 1990). That revision allowed the facility to

¹ EPA's "bubble policy" was originally established in 1979, *see* 44 FR 71779 (December 11, 1979), and later replaced as part of the final Emissions Trading Policy Statement (ETPS) in 1986, *see* 51 FR 43814 (December 4, 1986). A January 2001 EPA guidance document, "Improving Air Quality with Economic Incentive Programs," describes various types of Economic Incentive Programs that may provide sources with a flexible, cost-effective way of meeting existing SIP requirements. This document states that it supersedes EPA's 1986 ETPS (and some other documents) but that such earlier documents may provide supplementary information and useful background when designing an Economic Incentive Program.

² The company, originally named Alcan Foil Products, later became Reynolds Metals Company, then LL Flex, LLC.

average, or “bubble,” VOC emissions from nine rotogravure printing/coating machines in lieu of achieving compliance with Jefferson County’s SIP-approved graphic arts VOC RACT regulation – Regulation 6.29, “Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography” – on a line-by-line³ basis. The revision treated the nine machines as one affected facility and required the facility to achieve a VOC emissions reduction equivalent to at least 20 percent of the baseline emissions from the affected units.⁴ Jefferson County included these provisions in permits issued by the District to Alcan Foil Products (now LL Flex), and those permits were incorporated by reference into the Kentucky SIP. Specifically, the May 16, 1990, approval incorporated into the SIP the Air Pollution Control District of Jefferson County’s (APCDJC’s) Permits 103-74, 104-74, 105-74, 106-74, 110-74, and 111-74, as effective on February 28, 1990.

Subsequently, in 1998, EPA approved a revision to the Kentucky SIP that provided additional flexibilities in plant operations of Reynolds Metals Company (now LL Flex) so that customer printing demands could be satisfied. *See* 63 FR 1927 (January 13, 1998). The revision lowered the daily maximum VOC emissions allowed from the facility’s nine rotogravure printing/coating machines but retained the 266.2 tons per year limit for the facility and increased the number of operating days allowed. Additionally, the revision removed the maximum operating speeds for the nine machines. Jefferson County included these provisions in permits issued by the District to Reynolds Metals Company, and those permits were incorporated by reference into the Kentucky SIP. Specifically, the January 13, 1998, approval incorporated into the SIP updates to the previously approved APCDJC Permits 103-74, 104-74, 105-74, 106-74, 110-74, and 111-74, as effective on April 16, 1997.

Jefferson County has chosen to submit a SIP revision to remove the permits incorporated

³ “Line” refers to “printing line,” which is defined, in part, as “a series of processes, and the associated process equipment, used to apply, dry, and cure an ink containing a VOC.” *See* Definition 1.8 of Regulation 6.29, Section 1.

⁴ As described in the notice of proposed rulemaking for the 1990 action, “Baseline emissions were determined using the lowest of actual, SIP-allowable or RACT-allowable emissions for each source involved in the bubble, with values for the actual quantity of VOC content of coatings used based on the most recent two-year period.” *See* 55 FR 2842 (January 29, 1990).

by reference and replace them with a Board Order, which was issued by the District to the facility on November 18, 2020, and which imposes control requirements that are at least as stringent than those in the permits.^{5,6} This way, the Board Order would become the source-specific SIP-approved provision, and any future amendments made by the District to the facility's permits for matters that are unrelated to the Board Order conditions will not necessitate a SIP revision.

EPA has reviewed the Board Order and preliminarily determined that it achieves a level of VOC emissions control that is at least as stringent as the requirements of the permits that were incorporated by reference into the SIP in 1990 and revised in 1998. Specifically, EPA notes the following similarities and differences between the Board Order proposed for incorporation into the SIP and the permits proposed for removal from the SIP: (1) the Board Order applies to eight of the nine machines that are identified in Condition 2 of the permits – one of the nine original machines (number 16) has been removed from the facility and will no longer be operated; (2) the Board Order continues to allow the machines to operate 365 days per year; (3) while Condition 5.f of the permits requires that compliance reports be submitted to the District monthly, the Board Order allows semiannual compliance reporting, which is consistent with EPA's 1999 Recordkeeping and Reporting Burden Reduction rulemaking, *see* 64 FR 7458 (February 12, 1999); (4) the Board Order continues to limit VOC emissions to 1,458 pounds per day and 266.2 tons per year; (6) Condition 7 of the permits requires the machine owner or operator to comply with a daily RACT allowable limitation for all inks and coatings used of 65 percent by weight control for solvent-based inks run on the machines within the bubble, usage of 75 percent water by volume in the volatile portion of water-based coatings/inks, or usage of high solids content coatings/inks with greater than 60 percent nonvolatile material on a water-free basis. The Board

⁵ The November 18, 2020, Board Order also formally changes the name of the owner to LL Flex, LLC, and the name of the facility to LL Flex, LLC, Louisville Laminating Plant.

⁶ Found under 40 CFR 52.920(d), the old permits being proposed for removal are approved in the Kentucky SIP as "Operating Permits for nine presses at the Alcan Foil Products facility – Louisville" and "Reynolds Metals Company."

Order retains this requirement but adds a new compliance option allowing for all inks and coatings to contain no more than 0.5 pounds of VOC per pound of solids, which is consistent with SIP-approved Rule 6.29, Section 3, provision 3.1.3 (*see* 58 FR 54516 (October 22, 1993) and 82 FR 47376 (October 12, 2017)).⁷ The SIP revision includes a quantitative analysis from LL Flex demonstrating that this option, if utilized, would not increase VOC emissions.⁸

EPA has preliminarily determined that approval of this SIP revision would not increase air pollutant emissions from LL Flex and will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable Clean Air Act (CAA) requirement based on LL Flex's quantitative demonstration and on the nature of the differences between the Board Order and the SIP-approved permits, as modified in 1998.

III. Incorporation by Reference

In this action, EPA is proposing to include in a final EPA rule amended regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, as described in Sections I and II of the preamble, EPA is proposing the incorporation by reference of Jefferson County's source-specific Board Order for LL Flex, LLC, effective on November 18, 2020. Also in this document, EPA is proposing to remove APCDJC Permits 103-74, 104-74, 105-74, 106-74, 110-74, and 111-74, effective on February 28, 1990, for Alcan Foil Products and effective on April 16, 1997, for the Reynolds Metals Company, from the Kentucky SIP, which were incorporated by reference in accordance with requirements of 1 CFR 51.5. EPA has made, and will continue to make, the SIP generally available at the EPA Region 4 Office (please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section of this preamble for more information).

IV. Proposed Action

⁷ See "LL Flex permits and ABO comparison" in the docket for this proposed rulemaking for a more detailed comparison of the permits and the new Board Order.

⁸ See 20200228_LLFlex_ems_calcs.xlsx in the docket for this proposed rulemaking.

EPA is proposing to approve the March 29, 2021, SIP revision and replace the existing source-specific permits for the LL Flex facility in the Kentucky SIP with the November 18, 2020, Board Order.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

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